



State of Wisconsin  
2011 - 2012 LEGISLATURE



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**SENATE SUBSTITUTE AMENDMENT 1,  
TO 2011 SENATE BILL 22**

May 25, 2011 – Offered by Senators OLSEN and DARLING.

1     **AN ACT to repeal** 118.40 (2) (b) 1. and 2., 118.40 (2r) (c) and (cm), 118.40 (7) (am)  
2             3., 118.40 (8) (h) and 118.51 (3) (a) 7.; **to renumber** 118.51 (1) (a); **to renumber**  
3             **and amend** 118.40 (2) (b) (intro.), 118.40 (3) (d), 118.40 (3) (e), 118.40 (4) (a) and  
4             118.40 (4) (c); **to amend** 20.923 (6) (m), 40.02 (28), 40.02 (36), 111.81 (7) (f),  
5             111.815 (1), 111.825 (2) (f), 111.92 (1) (c), 115.001 (1), 115.001 (16), 118.40 (2m)  
6             (b), 118.40 (2r) (b) 1. (intro.), 118.40 (2r) (b) 2., 118.40 (2r) (b) 3. (intro.), 118.40  
7             (2r) (bm), 118.40 (2r) (d) (intro.), 118.40 (2r) (e) 2., 118.40 (2r) (f), 118.40 (4)  
8             (title), 118.40 (6), 118.40 (7) (am) 1., 118.40 (8) (a) (intro.), 118.40 (8) (f) 1., 118.40  
9             (8) (g) 2., 118.40 (8) (g) 3., 118.51 (3) (a) 6., 118.51 (3) (b), 121.02 (1) (a) 2., 121.05  
10            (1) (a) 9., 121.08 (4) (a) 1., 230.08 (2) (dm) and 230.35 (1s); **to repeal and**  
11            **recreate** 118.40 (2r) (b) 4.; and **to create** 15.07 (1) (a) 7., 15.56, 20.265, 20.923  
12            (4) (e) 1. c., 20.923 (6) (aLm), 40.05 (2) (f) 9., 118.19 (14), 118.395, 118.40 (2r) (b)  
13            1. e. and f., 118.40 (2r) (g), 118.40 (2r) (h), 118.40 (2r) (i), 118.40 (2r) (j), 118.40

1 (2t), 118.40 (3) (f), 118.40 (3) (g), 118.40 (3m) (intro.), 118.40 (3m) (a) and (d) to  
2 (f), 118.40 (4) (ag), 118.40 (4) (ar) 3., 118.40 (4) (d), 118.40 (7) (c), 118.51 (1) (ag),  
3 119.60 (5), 119.60 (6) and 230.08 (2) (wc) of the statutes; **relating to:** charter  
4 schools, creating a Charter School Authorizing Board, granting rule-making  
5 authority, and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

Under current law, school boards may enter into contracts with individuals, groups, businesses, or governmental bodies to establish charter schools, which operate with fewer constraints than traditional public schools. Current law also permits the University of Wisconsin (UW)-Milwaukee, UW-Parkside, the Milwaukee Area Technical College, and the city of Milwaukee to operate charter schools (independent charter schools) directly or to contract for the operation of charter schools. In general, only pupils who reside in the school district in which an independent charter school is located may attend the charter school. No entity authorized to establish an independent charter school may establish a virtual charter school.

This substitute amendment allows a cooperative educational service agency (CESA) to contract for the operation of independent charter schools. The substitute amendment also creates an independent state agency, the Charter School Authorizing Board (CSAB), and authorizes it to contract for the operation of independent charter schools. The CSAB consists of the state superintendent of public instruction and eight other members. Of the latter members, six are appointed by the governor and two by the state superintendent. The substitute amendment prohibits the CSAB from promulgating administrative rules. The substitute amendment permits the CSAB and a CESA to contract for the establishment of charter schools located anywhere in the state.

The substitute amendment eliminates the authority of the entities specified above to establish an independent charter school directly. Under the substitute amendment, a charter school may be established only by contract. In addition, every charter school must be operated by a governing board and every contract for the establishment of a charter school entered into by the CSAB must be with a nonprofit corporation. The substitute amendment removes the restrictions that limit who may attend an independent charter school. Under the substitute amendment, only a school board or a CESA may establish a virtual charter school. The substitute amendment eliminates the cap on the number of pupils who may attend virtual charter schools through the Open Enrollment Program, currently set at 5,250.

The substitute amendment allows a charter school contract to provide for more than one charter school, and allows a charter school governing board to enter into more than one contract. Until the 2017-18 school year, the substitute amendment

limits the number of contracts that the CSAB may enter into. In addition, a contract with the CSAB may only authorize the establishment of charter schools located in one school district or in the territory of one CESA.

The substitute amendment provides that if a nonprofit corporation wishes to contract with the CSAB to operate a charter school, it must apply concurrently to the CSAB and the school board of the school district in which it wishes to locate the charter school by July 1. The school board has until October 1 to enter into a contract with the nonprofit corporation unless the school board and the nonprofit corporation jointly request the CSAB for an additional 30 days. If the school board does not wish to contract with the corporation or fails to successfully negotiate a contract with the corporation, the application is referred to the CSAB. The CSAB must determine by February 1 whether to contract with the corporation.

The substitute amendment requires every charter school under contract with the CSAB to pay an annual fee to the CSAB. The substitute amendment allows a charter school under contract with an authorizing entity, including the CSAB, to provide health care for its employees under the Group Insurance Board health coverage plan for local government employees if the charter school has become a participating employer in the Wisconsin Retirement System. Although a charter school's employees are not state employees and may not be local government employees, the substitute amendment provides that a charter school's governing board may elect to become a participating employer under the Wisconsin Retirement System.

Current law prohibits a school board from converting all of the public schools in the school district to charter schools unless the school board provides alternative public school attendance arrangements for pupils who do not wish to attend or are not admitted to a charter school. In addition, a school board may not grant a petition to establish a charter school that would result in the conversion of all the public schools in the school district to charter schools unless at least 50 percent of the teachers employed by the school district sign the petition.

This substitute amendment eliminates the conditions on converting all of a school district's public schools to charter schools and explicitly permits a school board to do so.

Current law provides that no pupil may be required to attend a charter school without his or her approval, if the pupil is an adult, or the approval of his or her parents, if the pupil is a minor. This substitute amendment provides that this prohibition does not apply if all of a school district's public schools are converted to charter schools.

The substitute amendment requires that a charter school accept pupils at random if the capacity of the school is insufficient to accept all applicants. A charter school must, however, give preference in enrollment to pupils who were enrolled in the school in the previous school year and to siblings of pupils who are enrolled in the school. In addition, the substitute amendment allows a charter school to give preference in enrollment to children of the charter school's founders, governing board members, and full-time employees so long as the number of such children given preference constitutes no more than 10 percent of the school's enrollment.

The substitute amendment directs the Department of Public Instruction to promulgate rules establishing a charter school teaching license that allows the licensee to teach multiple subjects in a charter school. The rules must require the applicant to demonstrate competence in each subject and must provide the applicant several means of doing so.

Under current law, state aid to independent charter schools is funded by a reduction in general school aid, applied on a prorated basis to all school districts. Current law provides that beginning in the 2011-12 school year, instead of reducing general school aid by the amount of charter school aid paid in the same school year, general school aid will be reduced by the amount of charter school aid paid in the 2010-11 school year. This substitute amendment eliminates this cap on the reduction in general school aid described above.

Under current law, pupils attending a charter school under contract with a school board are counted in the school district's enrollment for state aid purposes. This substitute amendment also counts in a school district's enrollment those resident pupils who are attending an independent charter school under contract with the CSAB or a CESA. However, the substitute amendment reduces the school district's state aid by an amount equal to the number of such pupils multiplied by the per pupil state aid amount that is paid to the independent charter schools.

The substitute amendment provides that if the Board of Directors of the Milwaukee Public Schools (MPS) has leased property owned by the city of Milwaukee to a charter school that is not an instrumentality of MPS, and the lease was in effect on January 1, 2011, when the lease is extended, modified, or renewed, the city of Milwaukee is a party to the lease and may negotiate with the charter school to modify the terms of the lease.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 15.07 (1) (a) 7. of the statutes is created to read:
- 2           15.07 (1) (a) 7. Members of the charter school authorizing board appointed
- 3 under s. 15.56 shall be appointed as provided in that section.
- 4           **SECTION 2.** 15.56 of the statutes is created to read:
- 5           **15.56 Charter school authorizing board.** (1) There is created a charter
- 6 school authorizing board consisting of the state superintendent of public instruction
- 7 and the following members appointed for 3-year terms:
- 8           (a) Six members appointed by the governor.

1 (b) Two members appointed by the state superintendent of public instruction  
2 from a list of nominees submitted jointly by the Wisconsin Association of School  
3 Boards and the Wisconsin Association of School District Administrators.

4 (2) The appointing authorities under sub. (1) shall ensure to the extent feasible  
5 that members appointed to the board are geographically diverse and have experience  
6 and expertise in governing public and nonprofit organizations; in management and  
7 finance; in public school leadership, assessment, and curriculum and instruction;  
8 and in education law; and understand and are committed to the use of charter schools  
9 to strengthen public education.

10 (3) No member of the board appointed under sub. (1) may serve more than 2  
11 consecutive terms.

12 (4) The board does not have rulemaking authority.

13 **SECTION 3.** 20.265 of the statutes is created to read:

14 **20.265 Charter school authorizing board.** There is appropriated to the  
15 charter school authorizing board for the following programs:

16 (1) SUPPORT OF CHARTER SCHOOLS. (g) *Oversight.* All moneys received as fees  
17 under s. 118.40 (4) (ar) 3. to perform its functions under s. 118.40.

18 (h) *Gifts and grants.* All moneys received from gifts and grants for the purposes  
19 for which made.

20 **SECTION 4.** 20.923 (4) (e) 1. c. of the statutes is created to read:

21 20.923 (4) (e) 1. c. Charter school authorizing board: executive director.

22 **SECTION 5.** 20.923 (6) (aLm) of the statutes is created to read:

23 20.923 (6) (aLm) Charter school authorizing board: unclassified professional  
24 staff.

25 **SECTION 6.** 20.923 (6) (m) of the statutes is amended to read:

1           20.923 (6) (m) University of Wisconsin System: deans, principals, professors,  
2 instructors, research assistants, librarians and other teachers, as defined in s. 40.02  
3 (55), the staff of the environmental education board, and instructional staff  
4 employed by the board of regents of the University of Wisconsin System who provide  
5 services for a charter school established by contract under s. 118.40 (2r) (cm), 2009  
6 stats.

7           **SECTION 7.** 40.02 (28) of the statutes is amended to read:

8           40.02 (28) “Employer” means the state, including each state agency, any  
9 county, city, village, town, school district, other governmental unit or  
10 instrumentality of 2 or more units of government now existing or hereafter created  
11 within the state, any charter school under contract with a school board or with an  
12 entity specified in s. 118.40 (2r) (b) 1., any federated public library system established  
13 under s. 43.19 whose territory lies within a single county with a population of  
14 500,000 or more, a local exposition district created under subch. II of ch. 229, a transit  
15 authority created under s. 66.1039, and a long-term care district created under s.  
16 46.2895, except as provided under ss. 40.51 (7) and 40.61 (3). “Employer” does not  
17 include a local cultural arts district created under subch. V of ch. 229. Each employer  
18 shall be a separate legal jurisdiction for OASDHI purposes.

19           **SECTION 8.** 40.02 (36) of the statutes is amended to read:

20           40.02 (36) “Governing body” means the legislature or the head of each state  
21 agency with respect to employees of that agency for the state, the common council  
22 in cities, the village board in villages, the town board in towns, the county board in  
23 counties, the school board in school districts, or the board, commission or other  
24 governing body having the final authority for any other unit of government, for any  
25 agency or instrumentality of 2 or more units of government, for any federated public

1 library system established under s. 43.19 whose territory lies within a single county  
2 with a population of 500,000 or more, for a local exposition district created under  
3 subch. II of ch. 229, for a charter school under contract with a school board or with  
4 an entity specified in s. 118.40 (2r) (b) 1., or for a long-term care district created  
5 under s. 46.2895, but does not include a local cultural arts district created under  
6 subch. V of ch. 229.

7 **SECTION 9.** 40.05 (2) (f) 9. of the statutes is created to read:

8 40.05 (2) (f) 9. If the participating employer was a charter school under contract  
9 with a school board or with an entity specified in s. 118.40 (2r) (b) 1., and there is no  
10 successor employer to assume any outstanding obligations under the terms of this  
11 paragraph, the outstanding obligation shall be the responsibility of the school board  
12 or entity that contracted for the establishment of the charter school.

13 **SECTION 10.** 111.81 (7) (f) of the statutes is amended to read:

14 111.81 (7) (f) Instructional staff employed by the board of regents of the  
15 University of Wisconsin System who provide services for a charter school established  
16 by contract under s. 118.40 (2r) (cm), 2009 stats.

17 **SECTION 11.** 111.815 (1) of the statutes, as affected by 2011 Wisconsin Act 10,  
18 is amended to read:

19 111.815 (1) In the furtherance of this subchapter, the state shall be considered  
20 as a single employer and employment relations policies and practices throughout the  
21 state service shall be as consistent as practicable. The office shall negotiate and  
22 administer collective bargaining agreements. To coordinate the employer position  
23 in the negotiation of agreements, the office shall maintain close liaison with the  
24 legislature relative to the negotiation of agreements and the fiscal ramifications of  
25 those agreements. Except with respect to the collective bargaining unit specified in

1 s. 111.825 (2) (f), the office is responsible for the employer functions of the executive  
2 branch under this subchapter, and shall coordinate its collective bargaining  
3 activities with operating state agencies on matters of agency concern. The legislative  
4 branch shall act upon those portions of tentative agreements negotiated by the office  
5 that require legislative action. With respect to the collective bargaining unit  
6 specified in s. 111.825 (2) (f), the governing board of the charter school established  
7 by contract under s. 118.40 (2r) (cm), 2009 stats., is responsible for the employer  
8 functions under this subchapter.

9 **SECTION 12.** 111.825 (2) (f) of the statutes is amended to read:

10 111.825 (2) (f) Instructional staff employed by the board of regents of the  
11 University of Wisconsin System who provide services for a charter school established  
12 by contract under s. 118.40 (2r) (cm), 2009 stats.

13 **SECTION 13.** 111.92 (1) (c) of the statutes is amended to read:

14 111.92 (1) (c) Any tentative agreement reached between the governing board  
15 of the charter school established by contract under s. 118.40 (2r) (cm), 2009 stats.,  
16 acting for the state, and any labor organization representing a collective bargaining  
17 unit specified in s. 111.825 (2) (f) shall, after official ratification by the labor  
18 organization and approval by the chancellor of the University of  
19 Wisconsin-Parkside, be executed by the parties.

20 **SECTION 14.** 115.001 (1) of the statutes is amended to read:

21 115.001 (1) CHARTER SCHOOL. "Charter school" means a school under contract  
22 with a school board under s. 118.40 or with one of the entities under s. 118.40 (2r) (b),  
23 ~~or a school established and operated by one of the entities under s. 118.40 (2r) (b).~~

24 **SECTION 15.** 115.001 (16) of the statutes is amended to read:

1           115.001 **(16)** VIRTUAL CHARTER SCHOOL. “Virtual charter school” means a charter  
2 school under contract with a school board or board of control of a cooperative  
3 educational service agency under s. 118.40 in which all or a portion of the instruction  
4 is provided through means of the Internet, and the pupils enrolled in and  
5 instructional staff employed by the school are geographically remote from each other.

6           **SECTION 16.** 118.19 (14) of the statutes is created to read:

7           118.19 **(14)** The department shall promulgate rules establishing a charter  
8 school teaching license that allows the licensee to teach multiple subjects in a charter  
9 school. The rules shall require the applicant to demonstrate competence in each  
10 subject that he or she wishes to teach and shall provide the applicant several means  
11 of doing so.

12          **SECTION 17.** 118.395 of the statutes is created to read:

13          **118.395 Charter school authorizing board; executive director, staff. (1)**

14 The charter school authorizing board shall appoint an executive director outside the  
15 classified service. The executive director shall coordinate the activities of the board  
16 and exercise such further powers, functions and duties as the board prescribes.

17          **(2)** The executive director of the charter school authorizing board may employ  
18 4 professional staff members outside the classified service. Subject to authorization  
19 under s. 16.505, the executive director may employ additional professional staff  
20 members outside the classified service.

21          **SECTION 18.** 118.40 (2) (b) (intro.) of the statutes is renumbered 118.40 (2) (b)  
22 and amended to read:

23          118.40 **(2)** (b) A school board may grant a petition that would result in the  
24 conversion of all of the public schools in the school district to charter schools if all of  
25 the following apply:

1           **SECTION 19.** 118.40 (2) (b) 1. and 2. of the statutes are repealed.

2           **SECTION 20.** 118.40 (2m) (b) of the statutes is amended to read:

3           118.40 **(2m)** (b) A school board may ~~not~~ enter into a contract under par. (a) that  
4 would result in the conversion of all of the public schools in the school district to  
5 charter schools ~~unless the school board complies with sub. (2) (b) 2.~~

6           **SECTION 21.** 118.40 (2r) (b) 1. (intro.) of the statutes is amended to read:

7           118.40 **(2r)** (b) 1. (intro.) ~~All~~ Except as provided in subd. 4., any of the following  
8 entities may ~~establish by charter and operate a charter school or, on behalf of their~~  
9 ~~respective entities, may initiate a~~ contract with an individual or group to operate a  
10 ~~school as a~~ charter school:

11           **SECTION 22.** 118.40 (2r) (b) 1. e. and f. of the statutes are created to read:

12           118.40 **(2r)** (b) 1. e. The board of control of a cooperative educational service  
13 agency.

14           f. The charter school authorizing board.

15           **SECTION 23.** 118.40 (2r) (b) 2. of the statutes is amended to read:

16           118.40 **(2r)** (b) 2. ~~A charter shall include all of the provisions specified under~~  
17 ~~sub. (1m) (b) 3. to 14.~~ A contract shall include all of the provisions specified under  
18 sub. (1m) (b) 1. to 14. and shall specify the effect of the establishment of the charter  
19 school on the liability of the contracting entity under this paragraph. The contract  
20 may include other provisions agreed to by the parties. ~~The chancellor of the~~  
21 ~~University of Wisconsin-Milwaukee or of the University of Wisconsin-Parkside may~~  
22 ~~not establish or enter into a contract for the establishment of a charter school under~~  
23 ~~this paragraph without the approval of the board of regents of the University of~~  
24 ~~Wisconsin System.~~

25           **SECTION 24.** 118.40 (2r) (b) 3. (intro.) of the statutes is amended to read:

1           118.40 (2r) (b) 3. (intro.) If the chancellor of the University of  
2           Wisconsin–Parkside contracts for the establishment of a charter school, ~~the contract~~  
3           ~~shall also provide that the charter school must be operated by a governing board and~~  
4           ~~that the chancellor or his or her designee must be a member of the governing board.~~  
5           In addition, if and the contract provides that the instructional staff of the charter  
6           school shall consist of employees of the board of regents of the University of  
7           Wisconsin System, the contract shall also include provisions that do all of the  
8           following:

9           **SECTION 25.** 118.40 (2r) (b) 4. of the statutes is repealed and recreated to read:

10          118.40 (2r) (b) 4. a. The charter school authorizing board may contract only  
11          with the governing board of a nonprofit corporation for the operation of a charter  
12          school.

13          b. No entity under subd. 1. other than the board of control of a cooperative  
14          educational agency may contract for the operation of a virtual charter school.

15          **SECTION 26.** 118.40 (2r) (bm) of the statutes is amended to read:

16          118.40 (2r) (bm) The common council of the city of Milwaukee, the chancellor  
17          of the University of Wisconsin–Milwaukee, and the Milwaukee area technical college  
18          district board may only ~~establish or enter into a~~ contract for the establishment of a  
19          charter school located in the school district operating under ch. 119. The chancellor  
20          of the University of Wisconsin–Parkside may only ~~establish or enter into a~~ contract  
21          for the establishment of a charter school located in a unified school district that is  
22          located in the county in which the University of Wisconsin–Parkside is situated or  
23          in an adjacent county. A contract with the charter school authorizing board may only  
24          authorize the establishment of charter schools located in one school district or in the  
25          territory of one cooperative educational service agency.

1           **SECTION 27.** 118.40 (2r) (c) and (cm) of the statutes are repealed.

2           **SECTION 28.** 118.40 (2r) (d) (intro.) of the statutes is amended to read:

3           118.40 **(2r)** (d) (intro.) The ~~chartering or~~ contracting entity under par. (b) shall  
4 do all of the following:

5           **SECTION 29.** 118.40 (2r) (e) 2. of the statutes is amended to read:

6           118.40 **(2r)** (e) 2. If the chancellor of the University of Wisconsin-Parkside  
7 ~~establishes or~~ contracts for the establishment of a charter school under this  
8 subsection, in March the department shall pay to the unified school district in which  
9 the charter school is located, from the appropriation under s. 20.255 (2) (fm), an  
10 amount equal to the amount of school aid per pupil to which the unified school district  
11 is eligible in the current school year multiplied by the number of pupils attending the  
12 charter school who attended the charter school in the 2010-11 school year and who  
13 were previously enrolled in the unified school district.

14           **SECTION 30.** 118.40 (2r) (f) of the statutes is amended to read:

15           118.40 **(2r)** (f) If the chancellor of the University of Wisconsin-Parkside  
16 ~~establishes or~~ contracts for the establishment of a charter school under this  
17 subsection, biennially the chancellor shall submit a report to the legislature under  
18 s. 13.172 (2). The report shall include information on the academic performance of  
19 the pupils who attend the charter school and on the success of the governance  
20 structure of the charter school.

21           **SECTION 31.** 118.40 (2r) (g) of the statutes is created to read:

22           118.40 **(2r)** (g) If a school board leases a building to the governing body of a  
23 charter school, the lease may not include a provision specifying that it terminates if  
24 the lessee enters into a contract with an entity under par. (b) to operate a charter  
25 school.

1           **SECTION 32.** 118.40 (2r) (h) of the statutes is created to read:

2           118.40 **(2r)** (h) 1. If the governing board of a nonprofit corporation wishes to  
3 contract with the charter school authorizing board to operate a charter school, by  
4 July 1 it shall submit an application concurrently to the charter school authorizing  
5 board and the school board of the school district in which the corporation wishes to  
6 locate the charter school.

7           2. By October 1, the school board shall either enter into a contract with the  
8 governing board of the nonprofit corporation to operate a charter school under sub.  
9 (2m) or refer the application to the charter school authorizing board unless the school  
10 board and governing board of the nonprofit corporation jointly request the charter  
11 school authorizing board for an additional 30 days.

12           3. The charter school authorizing board shall review an application referred to  
13 it under subd. 2. by February 1 and shall either enter into a contract with the  
14 governing board of the nonprofit corporation to operate a charter school or deny the  
15 application.

16           **SECTION 33.** 118.40 (2r) (i) of the statutes is created to read:

17           118.40 **(2r)** (i) The charter school authorizing board may have in effect up to  
18 the following number of contracts with the governing boards of nonprofit  
19 corporations for the operation of charter schools in the following school years:

20           1. In the 2012-13 school year, 5.

21           2. In the 2013-14 school year, 10.

22           3. In the 2014-15 school year, 15.

23           4. In the 2015-16 school year, 20.

24           5. In the 2016-17 school year, 25.

25           6. In the 2017-18 school year or any school year thereafter, any number.

1           **SECTION 34.** 118.40 (2r) (j) of the statutes is created to read:

2           118.40 **(2r)** (j) A charter school established under this subsection is a local  
3 educational agency under 20 USC 6301 to 6578 and as such is eligible for funding as  
4 a local educational agency, and shall comply with all requirements of local  
5 educational agencies, under 20 USC 6301 to 6578.

6           **SECTION 35.** 118.40 (2t) of the statutes is created to read:

7           118.40 **(2t)** STATE AID REDUCTION. (a) Annually, the department shall  
8 determine, for each school district, the number of resident pupils attending a charter  
9 school under contract with the charter school authorizing board or the board of  
10 control of a cooperative educational service agency under sub. (2r).

11           (b) The department shall reduce each school district's state aid payment under  
12 s. 121.08 by an amount equal to the number of pupils determined under par. (a)  
13 multiplied by the amount paid per pupil under sub. (2r) (e) 1. If the state aid payment  
14 under s. 121.08 is insufficient to cover the reduction, the department shall reduce  
15 other state aid payments made by the department to the school district by the  
16 remaining amount.

17           (c) If a pupil attends a charter school as described under par. (a) for less than  
18 a full school term, the department shall prorate the state aid reduction under par.  
19 (b) based on the number of days that school is in session and the pupil attends the  
20 charter school.

21           (d) The department shall ensure that the aid reduction under par. (b) does not  
22 affect the amount determined to be received by a school district as state aid under  
23 s. 121.08 for any other purpose.

24           **SECTION 36.** 118.40 (3) (d) of the statutes is renumbered 118.40 (3m) (c) and  
25 amended to read:

1           118.40 **(3m)** (c) ~~A school board or an entity under sub. (2r) (b) shall give~~ Give  
2 preference in awarding contracts for the operation of charter schools to those charter  
3 schools that serve children at risk, as defined in s. 118.153 (1) (a).

4           **SECTION 37.** 118.40 (3) (e) of the statutes is renumbered 118.40 (3m) (b) and  
5 amended to read:

6           118.40 **(3m)** (b) ~~When establishing or~~ When contracting for the establishment  
7 of a charter school under this section, ~~a school board or entity specified under sub.~~  
8 ~~(2r) (b) shall consider~~ adhere to the principles and standards for quality charter  
9 schools established by the National Association of Charter School Authorizers.

10          **SECTION 38.** 118.40 (3) (f) of the statutes is created to read:

11          118.40 **(3)** (f) A contract with a school board or an entity under sub. (2r) (b) may  
12 provide for the establishment of more than one charter school, and a charter school  
13 governing board may enter into more than one contract with a school board or entity  
14 under sub. (2r) (b).

15          **SECTION 39.** 118.40 (3) (g) of the statutes is created to read:

16          118.40 **(3)** (g) 1. Except as provided in subds. 2. and 3. and sub. (4) (ar) 1., a  
17 contract with a school board or an entity under sub. (2r) (b) shall require that if the  
18 capacity of the charter school is insufficient to accept all pupils who apply, the charter  
19 school shall accept pupils at random.

20          2. A charter school shall give preference in enrollment to pupils who were  
21 enrolled in the charter school in the previous school year and to siblings of pupils who  
22 are enrolled in the charter school.

23          3. A charter school may give preference in enrollment to the children of the  
24 charter school's founders, governing board members, and full-time employees, but

1 the total number of such children given preference may constitute no more than 10  
2 percent of the charter school's total enrollment.

3 **SECTION 40.** 118.40 (3m) (intro.) of the statutes is created to read:

4 118.40 (3m) CHARTER SCHOOL AUTHORIZER DUTIES. (intro.) A school board or  
5 entity under sub. (2r) (b) shall do all of the following:

6 **SECTION 41.** 118.40 (3m) (a) and (d) to (f) of the statutes are created to read:

7 118.40 (3m) (a) Solicit and evaluate charter school applications.

8 (d) Approve only high quality charter school applications that meet identified  
9 educational needs and promote a diversity of educational choices.

10 (e) In accordance with the terms of each charter school contract, monitor the  
11 performance and compliance with this section of each charter school with which it  
12 contracts.

13 (f) Annually, submit to the state superintendent and to the legislature under  
14 s. 13.172 (2) a report that includes all of the following:

15 1. An identification of each charter school operating under contract with it,  
16 each charter school that operated under a contract with it but had its contract  
17 nonrenewed or revoked or that closed, and each charter school under contract with  
18 it that has not yet begun to operate.

19 2. The academic and financial performance of each charter school operated  
20 under contract with it.

21 3. The operating costs of the school board or entity under sub. (2r) (b) incurred  
22 under pars. (a) to (e), as detailed in its annual budget.

23 **SECTION 42.** 118.40 (4) (title) of the statutes is amended to read:

24 118.40 (4) (title) CHARTER SCHOOL GOVERNING BOARD; DUTIES, POWERS, AND  
25 RESTRICTIONS.

1           **SECTION 43.** 118.40 (4) (a) of the statutes is renumbered 118.40 (4) (ar), and  
2           118.40 (4) (ar) (intro.), as renumbered, is amended to read:

3           118.40 (4) (ar) *Duties.* (intro.) A charter school governing board shall do all of  
4           the following:

5           **SECTION 44.** 118.40 (4) (ag) of the statutes is created to read:

6           118.40 (4) (ag) *Governing board.* Each charter school shall be governed by a  
7           governing board that is a party to the contract with the authorizing entity. No more  
8           than a minority of the governing board's members may be staff of the charter school  
9           or of the school district in which the charter school is located.

10          **SECTION 45.** 118.40 (4) (ar) 3. of the statutes is created to read:

11          118.40 (4) (ar) 3. If the governing board is under contract with the charter  
12          school authorizing board, annually pay to the board a fee equal to the amount  
13          determined by multiplying the operational costs of all charter schools that it  
14          operated under contract with the board in the previous school year by 0.02. In order  
15          to determine the fee payable in the first school year of operation, the charter school  
16          governing board shall estimate its total operational costs in that school year.

17          **SECTION 46.** 118.40 (4) (c) of the statutes is renumbered 118.40 (3) (h) and  
18          amended to read:

19          118.40 (3) (h) ~~*Single-sex schools and courses.*~~ A school board ~~may enter into~~  
20          ~~a contract for,~~ and an entity under sub. (2r) ~~may establish or enter into a~~ contract  
21          for, the establishment of a charter school that enrolls only one sex or that provides  
22          one or more courses that enroll only one sex if the school board or entity under sub.  
23          (2r) makes available to the opposite sex, under the same policies and criteria of  
24          admission, schools or courses that are comparable to each such school or course.

25          **SECTION 47.** 118.40 (4) (d) of the statutes is created to read:

1           118.40 (4) (d) *Powers*. Subject to the terms of its contract, a charter school  
2 governing board has all the powers necessary to carry out the terms of its contract,  
3 including the following:

4           1. To receive and disburse funds for school purposes.

5           2. To secure appropriate insurance.

6           3. To enter into contracts, including contracts with a University of Wisconsin  
7 institution or college campus, technical college district board, or private college or  
8 university, for technical or financial assistance, academic support, curriculum  
9 review, or other services.

10          4. To incur debt in reasonable anticipation of the receipt of funds.

11          5. To pledge, assign, or encumber its assets to be used as collateral for loans or  
12 extensions of credit.

13          6. To solicit and accept gifts or grants for school purposes.

14          7. To acquire real property for its use.

15          8. To sue and be sued in its own name.

16          **SECTION 48.** 118.40 (6) of the statutes is amended to read:

17          118.40 (6) PROGRAM VOLUNTARY. ~~No~~ Unless all of the public schools in a school  
18 district have been converted to charter schools under sub. (2) (b) or (2m) (b), no pupil  
19 may be required to attend a charter school without his or her approval, if the pupil  
20 is an adult, or the approval of his or her parents or legal guardian, if the pupil is a  
21 minor.

22          **SECTION 49.** 118.40 (7) (am) 1. of the statutes is amended to read:

23          118.40 (7) (am) 1. Except as provided in ~~subds. subd. 2. and 3.~~, if a charter  
24 school is established under sub. (2m) and located in the school district operating  
25 under ch. 119, the school board of that school district shall determine whether or not

1 the charter school is an instrumentality of the school district. If the school board  
2 determines that a charter school is an instrumentality of the school district, the  
3 school board shall employ all personnel for the charter school. If the school board  
4 determines that a charter school is not an instrumentality of the school district, the  
5 school board may not employ any personnel for the charter school.

6 **SECTION 50.** 118.40 (7) (am) 3. of the statutes is repealed.

7 **SECTION 51.** 118.40 (7) (c) of the statutes is created to read:

8 118.40 (7) (c) For the purpose of eligibility for participation in the Wisconsin  
9 Retirement System, a charter school is considered a public entity that is carrying out  
10 a governmental purpose.

11 **SECTION 52.** 118.40 (8) (a) (intro.) of the statutes is amended to read:

12 118.40 (8) (a) *Location.* (intro.) For the purposes of sub. (7) (a), (am), and (ar),  
13 a virtual charter school under contract with one or more school boards is considered  
14 to be located in the following school district:

15 **SECTION 53.** 118.40 (8) (f) 1. of the statutes is amended to read:

16 118.40 (8) (f) 1. The members of the ~~school board~~ governing body of the entity  
17 that contracted for the establishment of the virtual charter school and the  
18 administrators of that ~~school district~~ entity.

19 **SECTION 54.** 118.40 (8) (g) 2. of the statutes is amended to read:

20 118.40 (8) (g) 2. Subject to subd. 2m., the third time in the same semester that  
21 a pupil attending a virtual charter school fails to respond appropriately to a school  
22 assignment or directive from instructional staff within 5 school days, the governing  
23 body of the virtual charter school shall also notify the ~~school board~~ governing body  
24 of the entity that contracted for the establishment of the virtual charter school, the  
25 school board of the pupil's resident school district, and the department. The ~~school~~

1 ~~board governing body of the entity~~ that contracted for the establishment of the  
2 virtual charter school may transfer the pupil to his or her resident school district.  
3 If the pupil is a resident of the school district that contracted for the establishment  
4 of the virtual charter school, the school board may assign the pupil to another school  
5 or program within that school district. If the ~~school board~~ governing body transfers  
6 or the school board assigns a pupil, it shall notify the pupil's parent or guardian and  
7 the department.

8 **SECTION 55.** 118.40 (8) (g) 3. of the statutes is amended to read:

9 118.40 (8) (g) 3. The parent or guardian of a pupil transferred to the pupil's  
10 resident school district under subd. 2. may appeal the transfer to the department  
11 within 30 days after receipt of the notice of transfer. The department shall affirm  
12 the ~~school board's~~ governing body's decision unless the department finds that the  
13 decision was arbitrary or unreasonable.

14 **SECTION 56.** 118.40 (8) (h) of the statutes is repealed.

15 **SECTION 57.** 118.51 (1) (a) of the statutes is renumbered 118.51 (1) (ar).

16 **SECTION 58.** 118.51 (1) (ag) of the statutes is created to read:

17 118.51 (1) (ag) "Charter school" excludes a school under contract with an entity  
18 under s. 118.40 (2r) (b).

19 **SECTION 59.** 118.51 (3) (a) 6. of the statutes is amended to read:

20 118.51 (3) (a) 6. If an application is accepted, on or before the first Friday  
21 following the first Monday in June following receipt of a notice of acceptance, ~~or~~  
22 ~~within 10 days of receiving a notice of acceptance if a pupil is selected from a waiting~~  
23 ~~list under s. 118.40 (8) (h) 5.,~~ the pupil's parent shall notify the nonresident school  
24 board of the pupil's intent to attend school in that school district in the following  
25 school year.

1           **SECTION 60.** 118.51 (3) (a) 7. of the statutes is repealed.

2           **SECTION 61.** 118.51 (3) (b) of the statutes is amended to read:

3           118.51 **(3)** (b) *Notice to resident school district.* Annually by June 30, each  
4 nonresident school board that has accepted a pupil under this section for attendance  
5 in the following school year shall report the name of the pupil to the pupil's resident  
6 school board. ~~If a pupil is selected from a waiting list under s. 118.40 (8) (h) 5., the~~  
7 ~~nonresident school board shall report the name of the pupil to the pupil's resident~~  
8 ~~school board within 10 days of receiving notice of the pupil's selection from the~~  
9 ~~department.~~

10          **SECTION 62.** 119.60 (5) of the statutes is created to read:

11           119.60 **(5)** Annually by August 1 the common council shall report to the  
12 department, the charter school authorizing board, and the legislature under s.  
13 13.172 (2) all of the following:

14           (a) All instances in the previous school year in which a person expressed  
15 interest in purchasing or leasing any city-owned property used for school purposes  
16 to a city official or employee. If the property was not sold or leased, the report shall  
17 indicate the reason.

18           (b) All sales of city-owned property used for school purposes that occurred in  
19 the previous school year and all leases of such property that were entered into in the  
20 previous school year.

21          **SECTION 63.** 119.60 (6) of the statutes is created to read:

22           119.60 **(6)** For any lease of city-owned property used for school purposes that  
23 is in effect on January 1, 2011, between the board and a charter school that is not an  
24 instrumentality of the school district under s. 118.40 (7), when the lease is extended,  
25 modified, or renewed the common council shall be made party to the lease and may

1 negotiate with the charter school to modify the terms of the lease if the common  
2 council adopts a resolution to do so.

3 **SECTION 64.** 121.02 (1) (a) 2. of the statutes is amended to read:

4 121.02 (1) (a) 2. Subject Except as provided in s. 118.40 (2r) (d) 1. and subject  
5 to s. 118.40 (8) (b) 2., ensure that all instructional staff of charter schools located in  
6 the school district hold a license or permit to teach issued by the department. For  
7 purposes of this subdivision, a virtual charter school under contract with one or more  
8 school boards is located in the school district specified in s. 118.40 (8) (a) and a charter  
9 school established under s. 118.40 (3) (c) 1. c. is located in the school district specified  
10 in s. 118.40 (3) (c) 1. c. The state superintendent shall promulgate rules defining  
11 “instructional staff” for purposes of this subdivision.

12 **SECTION 65.** 121.05 (1) (a) 9. of the statutes is amended to read:

13 121.05 (1) (a) 9. Pupils enrolled in a charter school, ~~other than a charter school~~  
14 ~~under s. 118.40 (2r)~~ under contract with a school board, the charter school  
15 authorizing board, or the board of control of a cooperative educational service agency.

16 **SECTION 66.** 121.08 (4) (a) 1. of the statutes is amended to read:

17 121.08 (4) (a) 1. ~~In the 2009-10 and 2010-11 school year, add~~ Add the amounts  
18 paid under s. 118.40 (2r) in the current school year, ~~and in the 2011-12 school year~~  
19 ~~and each school year thereafter, add the amounts paid under s. 118.40 (2r) in the~~  
20 ~~2010-11 school year.~~

21 **SECTION 67.** 230.08 (2) (dm) of the statutes is amended to read:

22 230.08 (2) (dm) Instructional staff employed by the board of regents of the  
23 University of Wisconsin System who provide services for a charter school established  
24 by contract under s. 118.40 (2r) (cm), 2009 stats.

25 **SECTION 68.** 230.08 (2) (wc) of the statutes is created to read:

1           230.08 (2) (wc) Professional staff members of the charter school authorizing  
2 board authorized under s. 118.395 (2).

3           **SECTION 69.** 230.35 (1s) of the statutes, as affected by 2011 Wisconsin Act 10,  
4 is amended to read:

5           230.35 (1s) Annual leave of absence with pay for instructional staff employed  
6 by the board of regents of the University of Wisconsin System who provide services  
7 for a charter school established by contract under s. 118.40 (2r) (cm), 2009 stats.,  
8 shall be determined by the governing board of the charter school established by  
9 contract under s. 118.40 (2r) (cm), 2009 stats., as approved by the chancellor of the  
10 University of Wisconsin-Parkside.

11           **SECTION 70. Nonstatutory provisions.**

12           (1) Notwithstanding section 15.56 (1) of the statutes, as created by this act, of  
13 the initial members appointed to the charter school authorizing board under section  
14 15.56 (1) (a) of the statutes, as created by this act, 2 members shall be appointed for  
15 terms expiring on May 1, 2013, 2 members shall be appointed for terms expiring on  
16 May 1, 2014, and 2 members shall be appointed for terms expiring on May 1, 2015;  
17 of the initial members appointed under section 15.56 (1) (b) of the statutes, as created  
18 by this act, one member shall be appointed for a term expiring on May 1, 2013, and  
19 one member shall be appointed for a term expiring on May 1, 2014.

20           **SECTION 71. Initial applicability.**

21           (1) CHARTER SCHOOL CONTRACTS. The treatment of sections 118.40 (2r) (b) 2., (3)  
22 (e) and (g), (4) (ag) and (d), and (7) (am) 3. of the statutes first applies to a contract  
23 for the establishment of a charter school that is entered into, renewed, or modified  
24 on the effective date of this subsection.

